

April 12, 2017

**VIA ELECTRONIC FILING**

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street SW  
Washington, D.C. 20554

**Re: WC Docket No. 16-206  
Notice of Pro-Forma Transfer of Control of Domestic Section 214  
Authorization held by KCST USA, Inc. to KCST USA, Inc. Debtor-In-  
Possession Due to Voluntary Filing of Chapter 11 Bankruptcy.**

Dear Ms. Dortch:

This firm is counsel to KCST USA, Inc. Debtor-In-Possession (“KCST DIP” or “Transferee”). Transmitted herewith is the Notice of Pro-Forma Transfer of Control of the Domestic Section 214 Authorization held by KCST USA, Inc.<sup>1</sup> (“KCST” or “Transferor”) to KCST DIP (“Notice”).

**I. Introduction**

KCST and KCST DIP through their undersigned counsel and pursuant to Section 214 of the Communications Act of 1934, as amended, 47 U.S.C. § 214, and Sections 63.03 and 63.04 of the rules of the Federal Communications Commission (“FCC” or “Commission”), 47 C.F.R. §§ 63.03 and 63.04, hereby respectfully file this Notice. This Notice is required<sup>2</sup> because on March 22, 2017, KCST filed a MOTION BY DEBTOR AND DEBTOR-IN-POSSESSION FOR ENTRY OF AN ORDER (A) AUTHORIZING POSTPETITION FINANCING ON A PRIORITY SECURED BASIS; (B) SCHEDULING INTERIM AND FINAL HEARING ON FINANCING; AND (C) GRANTING RELATED RELIEF (REQUEST FOR EXPEDITED DETERMINATION) under Chapter 11 and

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<sup>1</sup> KCST USA, Inc. is the company formerly known as Axia NGNetworks USA, Inc., FRN 0022558662. It underwent a name change on Feb. 6, 2017.

<sup>2</sup> See 47 C.F.R. § 63.03(d)(2).



pursuant to Section 363 and 364 of the Bankruptcy Code (“Bankruptcy Motion”) with the United States Bankruptcy Court of the District of Massachusetts (“Bankruptcy Court”).<sup>3</sup> KCST is a Delaware based corporation, formerly known as Axia NGNetworks USA, Inc., and all of KCST’s stock is owned by the Axia NGNetworks Trust (“Trust”); FSM Capital Management LLC (“FSM” or “Operating Trustee”) maintains all rights, responsibilities, and de jure and de facto control of the Trust, as well as the responsibility of operating KCST.<sup>4</sup> This is a pro-forma transfer of control because while KCST’s assets, including its domestic Section 214 authorization, were transferred to KCST DIP, the transfer does not result in a change in the ultimate ownership of the Trust or control of the entity operating under the domestic Section 214 authority.

## II. Additional Information Required for Filing the Notice

Pursuant to 47 C.F.R. § 63.03(d)(2) and in support of this Notice, both KCST and KCST DIP provide information found in 47 C.F.R. § 63.04(a)(1)-(4):

1. Name, Address, and Telephone Number of Each Application, 47 C.F.R. § 63.04(a)(1).

### Transferor/Licensee

KCST USA, Inc.  
One International Place  
100 Oliver Street, Suite 1400  
Boston, MA 02110  
Telephone: (617) 535-7530

Axia NGNetworks Trust  
c/o FSM Capital Management LLC, Operating Trustee  
Attn: Terrence P. Fergus, CPA PFS  
FSM Capital Management LLC  
6060 Parkland Blvd., Suite 100  
Cleveland, Ohio 44124  
Telephone: (216) 916-8425

### Transferee

KCST USA, Inc., Debtor-In-Possession  
One International Place  
100 Oliver Street, Suite 1400  
Boston, MA 02110  
Telephone: (617) 535-7530

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<sup>3</sup> See *In Re KCST USA, Inc.*, Case No. 17-40501 (Bank. D. Mass. Mar. 22, 2017).

<sup>4</sup> Axia NGNetworks USA, Inc., the Trust, and FSM Management were parties to a Joint Application for Domestic Control to the FCC (“Application”). See Docket 16-206. The Application was granted on July 29, 2016.

Axia NGNetworks Trust  
c/o FSM Capital Management LLC, Operating Trustee  
Attn: Terrence P. Fergus, CPA PFS  
FSM Capital Management LLC  
6060 Parkland Blvd., Suite 100  
Cleveland, Ohio 44124  
Telephone: (216) 916-8425

2. The Government, State, or Territory under the Laws of Which Each Corporate Applicant is Organized, 47 C.F.R. § 63.04(a)(2).

Transferor: KCST is a corporation formed under the laws of Delaware. The Trust is a Delaware Statutory Trust formed under the laws of Delaware. The Trust is managed by Operating Trustee FSM, a limited liability corporation formed under the laws of Ohio.

Transferee: KCST DIP is a corporation formed under the laws of Delaware. The Trust is a Delaware Statutory Trust formed under the laws of Delaware. The Trust is managed by Operating Trustee FSM, a limited liability corporation formed under the laws of Ohio.

3. Name, Title, Address, and Telephone Number of Officer or Contact Point to Whom Correspondence Regarding the Application Should Be Addressed, 47 C.F.R. § 63.04(a)(3).

For Transferor and Transferee:

Axia NGNetworks Trust  
Jeffrey Embleton, Mansour Gavin LPA  
Jennifer Hom, Mansour Gavin LPA  
North Point Tower  
1001 Lakeside Ave., Suite 1400  
Cleveland, Ohio 44114  
Telephone: (216) 523-1500

4. The Name, Address, Citizenship, and Principal Businesses of Any Person or Entity that Directly or Indirectly Own at Least 10% of the Equity of the applicant, and the Percentage of Equity Owned by Each of those Entities (to the nearest 1%), 47 C.F.R. § 63.04(a)(4).

**Pre- and Post-Transaction Ownership of Transferor/Licensee:**

The following entity holds a 10% or greater direct or indirect interest in KCST:

The Trust owns 100% of the issued and outstanding stock of KCST. Under the trust agreement, Operating Trustee will have all powers and responsibilities to exercise de jure and de facto control of and operate Licensee.

The following individuals currently hold a 10% or greater direct or indirect interest in the Operating Trustee and are expected to hold a ten percent or greater interest in the Operating Trustee post-transaction:

Terrence P. Fergus owns 54% of FSM. He is a Certified Public Accountant and a United States citizen. His address is 6060 Parkland Blvd, Suite 100, Cleveland, OH 44124.

David A. Lightner owns 33% of FSM. He is a Certified Public Accountant and a United States citizen. His address is 6060 Parkland Blvd, Suite 100, Cleveland, OH 44124.

**Pre-and Post-Transaction Ownership of the Transferee:**

Prior to the filing of the Bankruptcy Motion, KCST DIP did not exist. After filing the Bankruptcy Motion, the following entity holds a 10% or greater direct or indirect interest in KCST DIP:

The Trust owns 100% of the issued and outstanding stock of KCST. Under the trust agreement, Operating Trustee will have all powers and responsibilities to exercise de jure and de facto control of and operate Licensee.

The following individuals currently hold a 10% or greater direct or indirect interest in the Operating Trustee and are expected to hold a ten percent or greater interest in the Operating Trustee post-transaction:


Terrence P. Fergus owns 54% of FSM. He is a Certified Public Accountant and a United States citizen. His address is 6060 Parkland Blvd, Suite 100, Cleveland, OH 44124.

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Please do not hesitate to contact us with any questions.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Jeffrey M. Embleton", is written over the printed name.

Jeffrey M. Embleton

JME:edj